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BEFORE THE BOARD OF EXAMINERS OF
RESIDENTIAL CARE FACILITY ADMINISTRATORS
STATE OF IDAHO

In the Matter of the License of:)	
)	Case No. RCA-P3B-02B-03-2
)	
MARI SKEEN,)	FINDINGS OF FACT,
License No. RCA-231,)	CONCLUSIONS OF LAW, AND
)	RECOMMENDED ORDER
)	
Respondent.)	
_____)	

The contested case regarding the Complaint against Mari Skeen, a licensed Residential Care Facility Administrator, License No. RCA-231, in the state of Idaho, duly came on for hearing before the Board of Examiners of Residential Care Facility Administrators on December 16, 2003, at the offices of the Idaho State Bureau of Occupational Licenses (the "Bureau"), 1109 Main Street, Suite 220, Boise, Idaho, before Michelle R. Points, the duly appointed hearing officer. Respondent Mari Skeen ("Respondent") did not appear in person or telephonically. A default was entered against Respondent at the commencement of the hearing. The Board of Examiners of Residential Care Facility Administrators (the "Board") was represented by its legal counsel, Cheri L. Bush, Deputy Attorney General.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDED ORDER - 1

I.

ISSUES PRESENTED

The issues presented in this case are as follows:

1. Whether the Complaint filed in this matter contained sufficient grounds that, if proven, warrant disciplinary action by the Board against the Residential Care Facility Administrator license of Respondent; and
2. Whether sufficient grounds were proven, through testimony and/or other duly admitted evidence at the hearing held on the Complaint filed in this matter to suspend, revoke, or take other disciplinary against the Residential Care Facility Administrator license of Respondent; and
3. Whether investigative costs and attorney fees incurred in the prosecution of this matter by the Board against Respondent should be paid by Respondent and awarded to the Board.

Having considering the allegations made by the Board in its Complaint, having heard and considered the testimony presented on behalf of the Board during the course of the administrative hearing, having reviewed the record of this matter consisting of the Board's Exhibits 1-20, and being otherwise fully advised, the following consists of this hearing officer's Findings of Facts, Conclusions of Law, and Recommended Order.

A. Legal Authority Of The Board And Statutory Standards For Disciplinary Action Regarding Respondent's License As A Residential Care Facility Administrator.

As set forth in the Idaho Residential Care Facility Administrators Act (Idaho Code § 54-4201 *et seq.*), the Board is a self-governing agency for the state of Idaho that, among other things, is responsible to promulgate necessary administrative rules, issue Residential Care Facility Administrator licenses, initiate complaints against those individuals holding Residential

Care Facility Administrator licenses, investigate complaints against such individuals, and to conduct disciplinary proceedings against such individuals holding such licenses in the Idaho.

A Residential Care Facility Administrator is an individual responsible for planning, organizing, directing, and controlling the operation of a residential care facility, or who in fact performs such functions, whether or not such functions are shared by one or more other persons, and who is licensed under Idaho Residential Care Facility Administrators Act, as defined in Idaho Code § 54-4202.

After notice and an opportunity for hearing, the Board may take disciplinary action including suspending or revoking a license of a Residential Care Facility Administrator licensee for cause shown and upon proof that such licensee is reasonably unfit to operate a residential care facility, upon proof that such licensee has made willful or repeated violation of any provision of the Idaho Residential Care Facility Administrators Act, or upon proof that such licensee has taken repeated actions in a manner inconsistent with the health and safety of patients and/or residents, as outlined in Idaho Code § 54-4313.

The Board may, in its discretion, reissue a license or permit to any person whose license or permit has been revoked, as outlined in Idaho Code § 54-4214 and IDAPA 24.19.01.700.

B. Complaint Against Respondent.

A complaint dated September 23, 2003 (the “Complaint”), signed by the Chief of the Bureau, alleges that Respondent was at all relevant times the Residential Care Facility Administrator for the residential care facility known as Little Flower Care Homes, located at 2113 West Jefferson Street in Boise, Idaho (hereinafter referred to as “Jefferson House”).

The Complaint further alleges that, upon a report of investigators of the Idaho Bureau of Occupational Licenses (the “Bureau”) based on an inspection of the Jefferson House, it was

found that the condition of the Jefferson House was unsanitary, unsafe, and did not contain legally required apparatuses and/or equipment.

Finally, the Complaint alleges that Respondent's repeated failure to act in a manner consistent with the health and safety of residents of the Jefferson House constitutes a violation of the laws and rules governing the practice of Residential Care Facility Administrators, specifically Idaho Code § 54-4213(1)(b).

II.

SUMMARY OF THE TESTIMONY AND EVIDENCE PRESENTED AT THE ADMINISTRATIVE HEARING

At the hearing held in this matter on December 16, 2003, the Board presented evidence through the testimony of Cindy Rowland and Michelle Bissey, investigators for the Bureau.

Additionally, twenty exhibits were admitted into evidence.

Exhibit No.	Description
State's 1	Complaint received 3/18/03
State's 2	Licensee Listing
State's 3	Photographs, floor plan, 3/18,03
State's 4	Videotape of Jefferson House
State's 5	Records from Facility Standards
State's 6	Photographs, floor plan, 4/8/03
State's 7	Copy of cleaning duties
State's 8	Copy of Jefferson House policies
State's 9	Job descriptions
State's 10	3/22/03 incident report
State's 11	3/30/03 incident report
State's 12	4/16/03 letter to M. VanSlyke
State's 13	4/17/03 request for response
State's 14	Orientation and checklist
State's 15	M. VanSlyke's application/records
State's 16	Personnel records of complainants

State's 17	Criminal records of complainant
State's 18	Respondent's notes
State's 19	Respondent's notes
State's 20	Judgments of conviction, W. Teyema

The Respondent did not appear at the hearing. The hearing began fifteen minutes after the time designated in order to allow the Respondent time to arrive. The Respondent submitted no testimony or evidence in response to the allegations contained in the Complaint or at the hearing. As noted above, a default was entered against the Respondent at the commencement of the hearing.

Ms. Rowland testified regarding her investigation of the Jefferson House, including conversations with individuals she interviewed and the documentation she received during her investigation.

On March 18, 2003, Ms. Rowland, along with Ms. Bissey, was assigned to investigate the conditions at the Jefferson House based on a complaint received by the Bureau regarding the conditions of that facility. [Exhibit 1.]

Ms. Rowland proceeded to describe Exhibit 3, which is a floor plan of the Jefferson House drafted by Ms. Bissey, as well as color photos of the Jefferson House taken on March 18, 2003.

Ms. Rowland testified that she interviewed residents of the Jefferson House on March 18, 2003, including the individual who was described as the "house manager" of the facility, Ms. Melinda VanSlyke. Ms. VanSlyke told Ms. Rowland that she lived there with her boyfriend, Roger Jones, who was assisting her in the management of the Jefferson House. Ms. Rowland testified that she later learned that Respondent was only paying Ms. VanSlyke for her work at the Jefferson House, and that Respondent told Ms. VanSlyke that she could "share" her wages with

her boyfriend, Roger Jones, if she wished. Ms. VanSlyke proceeded to give Ms. Rowland and Ms. Bissey a tour of the Jefferson House.

Ms. Rowland testified that during the March 18, 2003 inspection of the Jefferson House, Ms. VanSlyke explained that the house manager that was employed prior to her, left the facility in an extremely dirty condition and that she was attempting to clean up the facility. Ms. VanSlyke also told Ms. Rowland that she had not received much instruction from Respondent during her two weeks of employment at the Jefferson House and that she had only seen Respondent on one occasion at the facility wherein Respondent did not enter the facility but simply dropped off groceries, which she did every two weeks. Ms. VanSlyke also told Ms. Rowland that she had requested that numerous items in the Jefferson House be repaired. Those repairs had apparently not been made.

Respondent arrived at the Jefferson House approximately 30 minutes after Ms. Rowland and Ms. Bissey arrived at the facility on March 18, 2003. Ms. Rowland testified that Respondent appeared to attempt to interfere with her interview of the residents of Jefferson House.

Testimony was then taken from Ms. Bissey. As explained above, Ms. Bissey was present at the visit to the Jefferson House on March 18, 2003, and also took a video tape recording of the facility on that date which was played for review by this hearing officer. [Exhibit 4.] Exhibit 4 showed several unclean, unsanitary, and unsafe conditions in the Jefferson House in the kitchen, bathrooms, bedrooms, and other living areas, and showed many items in disrepair, including a broken garbage disposal, fire extinguisher, smoke detectors, and lighting fixtures. There is no indication of how long these conditions existed prior to March 18, 2003.

Ms. Bissey testified that Dawn and William Teyema became residents of the Jefferson House and “took over” following the March 18, 2003 visit to the Jefferson House, because Dawn Teyema was certified to pass medications, which Ms. VanSlyke apparently was not certified.

There is nothing in the record that reflects that any person certified to assist with medications was on staff at the Jefferson House during the approximate 2-week time period that Ms. VanSlyke was employed as house manager, prior to the time that the Teyemas began part-time employment at that facility.

Ms. Bissey testified that she and Ms. Rowland returned to the Jefferson House on April 8, 2003. Exhibit 6 consists of a floor plan of the Jefferson House as it appeared on April 8, 2003, as well as color photos of that facility. Ms. Bissey testified that the conditions had improved “quite a bit” from the March 18, 2003 visit. Ms. VanSlyke and Mr. Jones did not work at the Jefferson House on April 8, 2003. Dawn and William Teyema were the house managers on April 8, 2003. Dawn Teyema told Ms. Bissey that Ms. VanSlyke and Mr. Jones had been fired because of a medication “mix-up” on March 22, 2003, wherein Mr. Jones gave a resident another resident’s medication. [Exhibit 10.] The Respondent was notified of the medication incident by phone the evening that it occurred, but did not visit the Jefferson House that evening. The incident report for the medication incident was created sometime after April 8, 2003, but back-dated to the March 22, 2003 date.

Ms. Bissey testified that she copied a policy manual that was on-site at the Jefferson House facility on April 8, 2003 [Exhibit 8] which had been purchased by Respondent and placed in that facility.

Although it appears that William Teyema was an employee of Respondent at the Jefferson House, he was not paid, but Dawn Teyema was “free to share” her salary with William Teyema for the work that he performed. This fact was confirmed by the Respondent.

Ms. Bissey testified that a Ms. Kimberly Keegan was the house manager of another one of the facilities operated by Respondent, the Palmwood facility.¹ Ms. Bissey testified that Kory Keegan, son of Kimberly Keegan, moved to Idaho to live near his mother when she was the house manager of the Jefferson House. After a period of time, Ms. Keegan was apparently transferred to the Palmwood facility and Kory Keegan became house manager of the Jefferson House. He worked there from May of 2002 until March of 2003, when Ms. VanSlyke took over the house manager position at the Jefferson House.

Ms. Bissey testified that when she interviewed Kory Keegan, he told her that during his nearly two years of employment at the Jefferson House, he never had a day off of work, he was required to work 24 hours a day, 7 days a week, and when he needed a relief worker to come in, he had to pay them out of his own pocket, that Respondent would not pay for another employee to work at that facility. This fact was confirmed by the Respondent. After Kory Keegan left the Jefferson House, he apparently moved to the Palmwood facility with his mother, where he “covered” for her occasionally, but was not paid by Respondent. According to Respondent, Kimberly Keegan is “free to share” her salary with her son if she wishes.

On April 11, 2003, Ms. Bissey and Ms. Rowland met with Ms. VanSlyke. During this meeting Ms. Van Slyke told Ms. Rowland and Ms. Bissey that she and her boyfriend, Roger Jones, were friends of Kory Keegan while he was the house manager of the Jefferson House. Ms. VanSlyke also told the investigators that she had called Respondent and told her that Kory Keegan had quit and was going to be leaving Jefferson House, and that there was no person to take care of the residents. Ms. VanSlyke stated that the Respondent asked her if she was “certified,” and Ms. VanSlyke stated that she was certified in CPR but not in assistance with

¹ The Jefferson House and the Palmwood facility are operated by Respondent under the corporate “umbrella” of Little Flower Assisted Living or Little Flower Care Homes.

medication. Respondent offered Ms. VanSlyke the position of house manager of the Jefferson House over the phone. Also in the April 11, 2003 meeting, Ms. VanSlyke stated that she had told Respondent that she had found drug paraphernalia in the Jefferson House, that there were drug “issues” with the Teyemas, that some of her own prescription medication had been stolen, and that she suspected the Teyemas had stolen that prescription medication. The Respondent did not investigate any of Ms. VanSlyke’s complaints. This fact was confirmed by Respondent.

On April 16, 2003, Ms. Bissey received a phone message from Respondent wherein Respondent asked if she still needed to submit a written response to the complaint “since everything had been fixed at the facility.” Ms. Bissey returned Respondent’s phone call and told her that she did need to file a written response. Respondent then indicated to Ms. Bissey that she had not filed a written response because all she would have to write would be, quote, “All fixed. Love Mari.”

On April 17, 2003, Ms. Bissey wrote a letter to Respondent seeking a written response to certain complaints regarding concerns pertaining to the Jefferson House. [Exhibit 13.] Respondent did not submit a written response.

Ms. Bissey met with the Respondent on April 22, 2003. At that meeting, Respondent produced documents, including an “orientation checklist” for Dawn and William Teyema dated March 22, 2003, the date the Teyemas were hired and Ms. VanSlyke was fired. [Exhibit 14.] Although Respondent claimed that she had provided training to the Teyemas, Respondent was not at the Jefferson House on March 22, 2003.

Respondent later faxed to Ms. Bissey, on May 7, 2003, Ms. VanSlyke’s employment application. Respondent told Ms. Bissey that she had called Ms. VanSlyke’s references but had not conducted a criminal background check on Ms. VanSlyke – that she considered calling her references an adequate background check. Also on May 7, 2003, Ms. Bissey received “notes”

apparently generated on that same date from Respondent which indicated dates that she had allegedly visited the Jefferson House. These dates do not correlate with the interviews Ms. Bissey and Ms. Rowland had with Ms. VanSlyke on March 18, 2003 or April 11, 2003.

During the course of the subject investigation, Ms. Bissey discovered that William Teyema had a criminal conviction history in the state of Oregon. [Exhibit 20.] During the April 22, 2003 meeting, Respondent told Ms. Bissey that she had seen a background check on Dawn and William Teyema that had been performed by a previous employer and that she had no concerns.

Ms. Rowland later testified that she discovered a summary of findings regarding a complaint investigation conducted by the Bureau of Facility Standards in January of 2003 regarding then-house manager of the Jefferson House wherein Kory Keegan allegedly provided marijuana to residents of that facility. [Exhibit 5(a).] Exhibit 5 appears to have been initialed by Respondent on November 4, 2002. However, during Ms. Rowland's March 18, 2003, visit to the Jefferson House, when asked if she was aware of any drug issues or allegations concerning any staff members of that facility, Respondent stated that she was not aware of any such allegations.

Apparently, Jefferson House's license to operate was revoked on May 9, 2003, by the Department of Health and Welfare, Bureau of Facility Standards [Exhibit 5(b)], but the facility operated past that time period. Also, Ms. Rowland stated that she believed that the Palmwood facility's license to operate had been suspended or expired in 2002, but that the facility continued to operate.

Employment files of Dawn and William Teyema from the Arrowhead Residential Care Facilities were introduced as Exhibit 16. These documents were apparently obtained from Sylvia Carney, the manager of the Arrowhead facility. Ms. Bissey was told by Ms. Carney that Dawn Teyema resigned from the Arrowhead facility because she was going to be given a drug test and

would fail that drug test, so she was given the option to resign or be fired. This was two weeks prior to Dawn Teyema going to work for the Respondent at the Jefferson House. Documents introduced as Exhibit 16 also indicated that William Teyema had disclosed that he had numerous criminal convictions, including possession of a controlled substance, assault, forgery, and shoplifting.

Respondent stated to Ms. Rowland that she had seen background checks on the Teyemas and nothing was of any concern to her.

Ms. Rowland testified that William Teyema had been fired from the Arrowhead facility before Dawn Teyema had resigned due to his temper and confrontations with the owner, staff, and residents.

Respondent stated that she had spoken with Sylvia Carney of the Arrowhead facility, and that Ms. Carney had told her that she would hire the Teyemas back “any time” and didn’t have any problems with their employment. Ms. Bissey interviewed Sylvia Carney on April 23 and April 24, 2003. Ms. Carney told Ms. Bissey that she would not rehire the Teyemas, and that she had specifically told Respondent that she would not rehire the Teyemas.

Ms. Carney stated that she had told Respondent that William Teyema had been fired for his outbursts and yelling at her and the residents, and that Respondent commented to Ms. Carney that William Teyema had yelled at her as well. Ms. Carney also stated that she had told Respondent that Dawn Teyema had refused to take a drug test and had admitted to using marijuana, which was why she was fired. Respondent admitted this fact. This conversation between Ms. Carney and Respondent apparently took place prior to the time Respondent hired the Teyemas on a full-time basis. When interviewed, Respondent stated that it did not concern her if one of her employees had used illegal drugs, and that she would still hire that individual.

III.

FINDINGS OF FACT

1. The Board of Examiners of Residential Care Facility Administrators has jurisdiction in this matter. Respondent is currently licensed as a Residential Care Facility Administrator.

2. Respondent failed to inspect the living conditions of the Jefferson House for an undetermined period of time, during which time unclean, unsanitary, and unsafe living conditions were openly visible.

3. Respondent failed to ensure that those persons employed at the Jefferson House were adequately qualified to meet to needs of the residents of that facility.

4. Respondent put the safety and well-being of the residents of the Jefferson House in danger by knowingly hiring employees to manage that facility who had extensive criminal and/or histories of illegal drug use, knowing that those employees solely provided care to the residents and had full access to the residents' medication supply.

5. Respondent put the safety and well-being of the residents of the Jefferson House in danger by knowingly hiring employees that were not certified in assisting its residents with medication.

6. Respondent has exhibited little or no concern toward the living conditions of the Jefferson House or the well-being of the residents of that facility.

7. Respondent has not cooperated with investigators from the Bureau, has not produced or submitted requested documents and/or written responses as requested by those investigators, and has provided those investigators with several back-dated documents apparently created in an effort to disguise the violations of the Idaho Residential Care Facility Administrators Act and/or to avoid disciplinary action.

IV.

CONCLUSIONS OF LAW

1. The Board of Examiners of Residential Care Facility Administrators may revoke or suspend the license of a Residential Care Facility Administrator in any case where the individual holding the license is determined to have violated any provision of the Idaho Residential Care Facility Administrators Act. Idaho Code § 54-4205(c).

2. Respondent has failed to adequately plan, organize, direct, and/or control the operation of the Jefferson House, in violation of Idaho Code § 54-4202(8).

3. Respondent's actions evidence that she is reasonably unfit to operate a residential care facility, pursuant to Idaho Code § 54-4213(a).

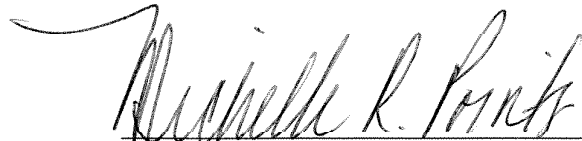
4. Respondent has repeatedly acted in a manner inconsistent with the health and safety of the residents of the Jefferson House, in violation of Idaho Code § 54-4213(b).

V.

RECOMMENDED ORDER

It is recommended that the Board of Examiners of Residential Care Facility Administrators issue disciplinary sanctions, in its discretion, against the Respondent, based upon her violations of the Idaho Residential Care Facility Administrators Act.

DATED THIS 7th day of January, 2004.



Michelle R. Points
Hearing Officer

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of January, 2004, I caused to be served a true copy of the foregoing FINDINGS OF FACT, CONCLUSIONS OF LAW, AND RECOMMENDED ORDER by the method indicated below, and addressed to each of the following:

Mari Skeen
1691 North Eagle Road
Eagle, ID 83616

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy

Cheri L. Bush
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
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Michelle R. Points

ORIGINAL

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BEFORE THE BOARD OF EXAMINERS OF
RESIDENTIAL CARE FACILITY ADMINISTRATORS
STATE OF IDAHO

In the Matter of the License of:)	
)	Case No. RCA-P3B-02B-03-2
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MARI SKEEN,)	NOTICE OF APPEAL RIGHTS
License No. RCA-231,)	
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Respondent.)	
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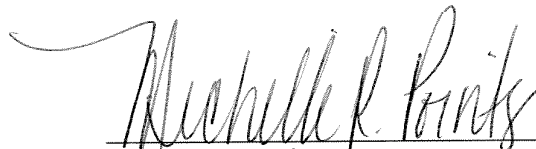
You were recently served with a recommended order of the hearing officer dated January 7, 2004. That recommended order will not become final without action of the agency head. Any party may file a petition for reconsideration of that recommended order with the hearing officer issuing the order within fourteen (14) days of the service date of this notice. The hearing officer issuing this recommended order will dispose of any petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Idaho Code §§ 677-5243(3); 67-5244 and IDAPA 04.11.01.720.02.

Within twenty-one (21) days after (a) the service date of this notice, (b) the service date of a denial of a petition for reconsideration from the recommended order, or (c) the failure within

twenty-one (21) days to grant or deny a petition for reconsideration from this recommended order, any party may in writing support or take exceptions to any part of the recommended order and file briefs in support of the party's position on any issue in the proceeding.

Written briefs in support of or taking exception to the recommended order shall be filed with the agency head (or designee of the agency head). Opposing parties shall have twenty-one days to respond. The agency head or designee may schedule oral argument in the matter before issuing a final order. The agency head or designee will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties or for good cause shown. The agency head (or designee of the agency head) may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order.

DATED THIS 9th day of January, 2004.



Michelle R. Points
Hearing Officer

CERTIFICATE OF SERVICE

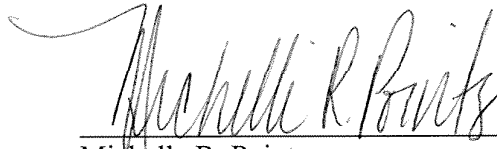
I HEREBY CERTIFY that on this 9th day of January, 2004, I caused to be served a true copy of the foregoing NOTICE OF APPEAL RIGHTS by the method indicated below, and addressed to each of the following:

Mari Skeen
1691 North Eagle Road
Eagle, ID 83616

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy

Cheri L. Bush
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

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Michelle R. Points